

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Tracy Halsell,

Plaintiff,

v.

Case No. 1:22-cv-00536

Barack H Obama,

Judge Michael R. Barrett

Defendant.

OPINION & ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation ("R&R"). (Doc. 4).

Plaintiff received proper notice under Federal Rule of Civil Procedure Rule 72(b) (*id.* at PageID 28-29), which included notice that he would waive further appeal if he failed to file objections to the R&R in a timely manner, *see United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). Plaintiff filed a Motion for Recusal in the period within which to file objections to the R&R. (Doc. 6). Out of an abundance of caution, the Court will consider the arguments raised in this filing.

With respect to dispositive matters, and when the Court receives timely objections to an R&R, the assigned district judge "must determine de novo any part of the magistrate judge's disposition that has been properly objected to." FED. R. CIV. P. 72(b)(3). "The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." *Id.*

Plaintiff's Complaint requests twenty million dollars from Defendant and alleges that Defendant "aided and abetted a series of assault, harassment, discrimination, and

conspiracy to commit murder" and, when Plaintiff tried to get the FBI involved, the FBI called Plaintiff a snitch, called Plaintiff other names, and tried to kill Plaintiff and his mother. (Doc. 5 PageID 32). The Magistrate Judge found that the Complaint provides no content from which the Court may reasonably infer that Defendant was involved in any of the alleged incidents or in any way violated Plaintiff's rights. (Doc. 4 PageID 27). The Magistrate Judge thus recommends that the Court dismiss the Complaint for failure to state a claim upon which relief may be granted. (*Id.*)

The Court agrees that the Complaint does not include enough, or really any, factual content to state a claim to relief that is plausible on its face. As the Magistrate Judge explained, a federal court may properly dismiss an action *sua sponte* under the screening provisions of 28 U.S.C. § 1915(e)(2)(B) if the action, *inter alia*, fails to state a claim upon which relief may be granted. (Doc. 4 PageID 25-26). Such a dismissal is proper in this matter where, even under the most liberal construction of the Complaint, the Complaint fails to include a basis for a federal claim. *Cf. Erickson v. Paradus*, 551 U.S. 89, 94 (2007) (per curiam) (holding that *pro se* plaintiffs are held to a less stringent standard than formal pleadings drafted by lawyers and their complaints must be liberally construed).

The Court will also deny Plaintiff's Motion for Recusal wherein Plaintiff requests that the undersigned and Magistrate Judges assigned Plaintiff's cases remove themselves from those cases due to alleged discrimination against Plaintiff that has culminated in either recommending the dismissal of Plaintiff's two complaints or the actual dismissal of Plaintiff's prior complaint. (Doc. 6); *cf. Halsell v. People Ready*, Case No. 1:21-cv-00763 (S.D. Ohio). "A judge's participation in the proceedings or prior contact with related cases cannot support a demand for recusal." *Moses v. Shelby Cnty.*, No. 16-

2253-JDT-DKV, 2016 WL 3829145, at *4 (W.D. Tenn. July 12, 2016) (citing *United States v. Sammons*, 918 F.2d 592, 599 (6th Cir. 1990)). Plaintiff's allegations and assertions of discrimination against the judicial officers assigned to his cases are conclusory, speculative, and lack any foundation or support. See *id.* "Plaintiff is attempting to bootstrap h[is] dissatisfaction with the Magistrate Judge's rulings in this and previous cases into a claim of [discrimination], and the Court rejects that attempt." *Id.*

Based on the foregoing de novo review, the Court **ACCEPTS** and **ADOPTS** the Magistrate Judge's R&R (Doc. 4). Accordingly, it is hereby **ORDERED** that Plaintiff's Complaint is **DISMISSED with prejudice**; Plaintiff's Motion for Recusal (Doc. 6) is **DENIED**; Plaintiff' Motion for Miscellaneous Relief (Doc. 2) is **DENIED as moot**; and the Court **CERTIFIES** that for an appeal of this Order would not be taken in good faith and accordingly **DENIES** Plaintiff leave to appeal *in forma pauperis*.

IT IS SO ORDERED.

/s Michael R. Barrett
Michael R. Barrett, Judge
United States District Court